4:Grodekov--131 E-5 (ca 1885) 1889 RQ2 Kazak RQ2

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| Misdemeanors | Opinions concerning punishments to be imposed for these acts | | | |
|---|---|---|---|---|
| | Sultan Daulet Bushaev, Perovsk uyezd. | Bii Kunakbai, Auliye-Ata uyezd. | The Kirgiz bii Kurpetai Dauletkulov. | Bii Sazabai Kurama uyezd. |
| Unjust judgment of an affair by a bii. | Not punished. | | Not punished. | |
| The acceptance of gifts by a bii who has justly (tene) decided a lawsuit. | Not punished. | ---------- | ---------- | |
| The extortion of gifts by a bii. | | He loses respect (beti kara). | | |
| /151/ A fight in which a horse is wounded. | Atbastagan toguz, or, according to Mikebai, of the Perovsk uyezd, atton, but if the horse dies, the value is paid. | | | If the horse dies of the wounds, it is paid for, otherwise not. |

(Table continues).

| Misdemeanors | Opinions concerning punishments to be imposed for these acts | | | |
|---|---|---|---|---|
| | Sultan Daulet Bushaev, Perovsk uyezd | Bii Kunakbai, Auliye-Ata uyezd. | The Kirgiz bii Kurpetai Dauletkulov. | Bii Sazabai, Kurama uyezd. |
| Unjust blows (1) | Atton. | Not punished. | Not punished. | A fine of 3 rubles. |

1. Among the Kirgiz no suit is entered for abuse and blows between equals. For abuse of an official person, the bii makes a reprimand and sentences a beating, while for blows borne by a superior, he requires sheep to be slaughtered, a coat to be brought and peace to be made (el kyldyrady). For a wound to an equal, the bii requires a sheep to be slaughtered, a coat to be brought and peace to be made. For a wound to a thief (uruny bashiny yarsa) no suit is brought (reported by bii Daniyar).

| | | | |
|---|---|---|---|
| Blows from which death resulted. | Full wergeld | In the opinion of many others, full wergeld. (In practice it is not observed, according to reports from the Perovsk and Auliye-Ata uyezds.) | |
| Blows suffered by a strange woman, resulting in miscarriage. | | | According to Torgai, wergeld is immediately (tokhtausiz) required for miscarriage without an oath as to whether it took place with or without blows. (Table continues). |

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| Misdemeanors | Opinions concerning punishments to be imposed for these acts | | | |
|---|---|---|---|---|
| | Sultan Daulet Bushaev, Perovsk uyezd. | Bii Kunakbai, Auliye-Ata uyezd. | The Kirgiz bii Kurpetai Dauletkulov. | Bii Sazabai, Kurama uyezd. |
| Blows administered to a husband /152/ or another, because of which a which a woman miscarries. | | | | According to Torgai, if the /152/ guilty party does not present the oath of two persons that the miscarriage was the result not of fright but of something else, he must pay wergeld according to the miscarriage. The choice of the side which must swear can also be given to the plaintiff. |
| Threat of murder. | | Not punished, in the opinion of many. According to bii Sultan, an admonition is made: Stop, leave these ways (tasta, bu filingnan kait)! | | A fine of 25 rubles. |

(Table continues).

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before an exact knowledge of customary law, especially since now every bii has his own devices, which often contradict each other (chatak). 693

The biis used to be judged by other biis or clan heads, but now they are tried on the common basis.

Bad language, yelling and scuffling in court is prosecuted by the biis. No prosecution is made for infliction of wounds in court if the wounded person was guilty, but if the guilty person causes the wounds, he is liable to the payment of the same fine which is imposed for the same crime committed outside the court. [687] 683

The punishment is not made heavier for murder and fighting before the court.

If someone dishonors the bii in words, they rebuke him saying: "Your tongue touched upon the bii" (biige tiling tiidi), and he is forced to ask forgiveness, but no fine is imposed, the more so because the bii hesitates to enter a suit concerning this. 693 683

/180/ The wergeld is not changed for the murder of a bii, but a larger fine is imposed for wounding him than for wounding a private individual. There is no prosecution for blows inflicted on a bii, if he owed money, but for unjust blows a fine is imposed which is higher than the usual one. For the exaction of these higher fines it is necessary 1) that the act be proven, and 2) that the person guilty of injuring the bii should be from the district /okrug/ of that bii. The injury of a bii from a strange village is prosecuted in the same way as the injury of an ordinary person.

The word mekhkeme, i. e., tribunal or court chamber, was not used in former times. This is now the name for the place or tent designated by the bii for the admission and examination of complaints in the Perovsk and Auliye-Ata uyezds. The biis sit on felt (tekemet), in the place of honor in the tent or room - the "tur", which is opposite the entrance, and before them on the ground are the plaintiff, the defendant and other persons who have been called in. In general, however, the examination of cases takes place anywhere and at any convenient opportunity. The court is where they find the bii, be this in the road, on a visit, or at a bazaar. The most precious convenience to the nomads lies in this simplicity of the conditions of a court. An experienced bii has his book of decisions and his seal with him in all places at all times. 695

The bii first hears and enters into his book the complaint of the plaintiff (dagvager), and then gives the floor to the defendant (dzhuabger tanbys) or to the witnesses. All those called to the court

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The volost administrators also influence the judgment. If a a volost official is protecting the defendant, the bii imposes an oath on the group of fifty of the defendant, when it was necessary to impose it on a village. He does this so that there will be a greater probability of the appearance of the juror (shygatugun dzher), for in a close circle there are fewer enemies, and even these are challenged as "disputables." The bii declares: "Say first of all who your enemies are or the disputable ones." The defendant names two or three persons.

If the plaintiff enjoys the favor of a volost official, the defendant is brought forward at once, and the bii imposes an oath the village of the defendant instead of the group of fifty. Later, when the disputable persons are challenged, the defendant is required to prove that the persons challenged actually had been involved in litigation with him at some time.

/186/ If the bii is not decided on doing what is pleasing to the volost official, the latter encourages him with the words: "Do not be afraid of an appeal. The exaction will be taken care of before then, and after that we will see somehow" (sizning khukmingiz buzulgancha dzhuaberdgan mal tulenib kalady).

When a bii learns that the volost official received a bribe from the defendant while he himself only received a bribe from the plaintiff, he sends to the defendant to receive a bribe before deciding the case in his favor. If by now the defendant will no longer give the bii anything, the bii judges the case in favor of the plaintiff, figuring in this way: "I have rendered a service to the plaintiff, my affair is closed. Let the volost official change my decision." But if a copy of the sentence has already been given out, a reversal of the decision of the bii can follow only by means of a volost session, and the volost official is left to paralyze the judgment by not carrying out the exaction or evaluating the object of the exaction at higher than its real value (Torgai).

For an unjust decision of one bii, overruled by many biis, the first is not prosecuted. (1) But if it is proven, with the help of

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1. In Kazalinsk in 1887 there was a case in which a judge was badly beaten by a defendant for an unjust decision. The complaint by the bii against the offender, as an act during the fulfillment of the duties of office, was transferred to a court of arbitration, which sentenced the offender to three

687 days confinement by the police.

witnesses, (2) that the bii has accepted a bribe, in most cases this

2. There are cases where both sides present many (70-90) witnesses, ready to testify under oath that the bii has taken or has not taken a bribe.

circumstance is passed over to a court magistrate for the further prosecution of the case of criminal breach of trust.

In the steppe in such cases they complain to the volost official, who charges the bii to "soothe the heart" of the complainer (keunin tultirib bering), i. e., either to clear himself by oath, or to give some sort of satisfaction to the dissatisfied person.

If there are no witnesses the bii usually clears himself by oath.

694 /187/ The summons of the litigants and the other interrogated persons to appear in court is in general the duty of the volost official.
661 He has riders /dzhigity/ for the summoning of the litigants. The plaintiff gives the rider who is sent for the defendant a certain sum, called "kyzmet" (good turn) which depends on the distance of the village of the defendant. If he wins the suit, he receives this money included with the other court expenses from the defendant.

The defendant asks the rider to tell the volost official that he was not at home. The rider refuses, demanding that the person under summons depart at once. Then the rider receives a bribe and reports to the volost official that the defendant was not at home. The volost official releases the plaintiff who is waiting there, for several days, adding after him: "Do not come empty, a!" (kuru kel'mengiz a!); meanwhile before the others the volost official says nothing, only rubbing his beard as though oiling it - a sign which is understandable enough to the plaintiff. After the departure of the plaintiff, the volost official asks the rider in a low voice whether he had found the defendant at home. The rider says: "He was. He gave me so and so much and promised also not to offend the volost official (kuru koymaymen)." In the evening of the same day the volost official sends another rider who frightens the defendant for not appearing. The defendant gives him something, in order to weary the plaintiff by delays.

Sometimes the volost official gives the plaintiff to understand, via an outside person, that the defendant was not at home 3 or 4 times, but nevertheless he, the volost official, will force the

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River had no other end but to attack the Kazaks, from whom they took many horses at this time; meanwhile the Dzungarian army returned to its home in peace, and Galdan Tsyren, the leader, died (1746).

This retreat, which was soon followed by the destruction of the Dzungarian state, brought peace to the Siberian frontiers, but it did not cause the Volga Kalmuks to lose their desire to join their compatriots. In order to hinder this project as much as possible, and also to put an end to the pillaging between the Kalmuks and Kazaks, both peoples were strictly forbidden to cross the Ural /River/. Also a regiment of Russian troops was detailed to keep watch there and to show that in the future such infractions would not remain unpunished. The Kalmuk leaders who had taken part in the last raid against the Kazaks were treated as state criminals and punished in [sur] the Volga, in order to serve as an example to their compatriots.

It was hoped that these measures would restore peace between the two enemy hordes, but it was hoped in vain. It is possible that the strict prohibition to crossing the border and the punishment of several violators of this rule, by way of example, did have some effect upon the Kalmuks, but it did not stop the Kazaks, who had become accustomed for two or three years not only to pillaging the Kalmuks with impunity but also the Russians. The building of forts and fortified posts along the lower sectors of the Ural River could only hinder the raids against the Kalmuks but could not stop them. Careful observation indeed suggested to the Kazaks a way of surmounting this obstacle.

The northern part of the Caspian Sea freezes over during the winter, and during the great frosts not only may it be crossed by men and horses, but also the heaviest weights can be transported over the ice without any [208] danger. Profiting by this fact, in February, 1746 the Kazaks moved from their steppes to those of the Kalmuks across the ice, opposite the mouth of the Ural River, and they carried out such an impetuous and unexpected attack below Krasny Yar [Krasnoyarsk] against the Kalmuks that they carried off nearly 700 prisoners of both sexes, killed about